

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANGELO BONILLA and ANTHONY YOUNG,

Plaintiffs,

-v-

9:11-CV-159
(DNH/RFT)

ANTHONY J. ANNUCCI, Executive Deputy
Commissioner; JOHN NUTTALL, Deputy
Commissioner for Program; LUCIEN LeCLAIRE,
JR., Facility Operations; MARK LEONARD,
Director of Ministerial Service; JAMES A.
NICHOLS, Mid-Orange Correctional Facility;
K.F. KELLER, Former Acting Superintendent
of Mid-Orange; and BRIAN FISCHER,
Department of Correctional Services,

Defendants.

APPEARANCES:

OF COUNSEL:

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ANTHONY YOUNG
Plaintiff, Pro Se
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ADELE M. TAYLOR-SCOTT, ESQ.
Ass't Attorney General

Attorney for Defendants¹
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DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiffs brought this action pursuant to 42 U.S.C. § 1983. On August 16, 2012, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation, that defendants' motion for summary judgment be granted in part and denied in part as follows: granted as to defendant James A. Nichols and that he be dismissed from the action; granted as to the First Amendment and Religious Land Use and Institutionalized Persons Act ("RLUIPA") claims based upon the restrictions on displaying Nations of Gods and Earth ("NGE")² symbols, Universal Flag, and texts; denied as to the First Amendment and RLUIPA claims based upon the restrictions on NGE congregative opportunities and on wearing crowns; denied as to all equal protection claims; and that defendant K.F. Keller be dismissed from the action as the claims against him are now moot. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

Therefore it is

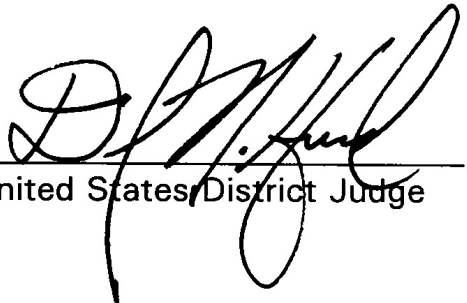
¹ To date, defendant K.F. Keller has not been properly served with process, thus no appearance has been made by defendants' counsel on his behalf. See, e.g., Dkt. No. 56 at p. 1, n. 1.

² Plaintiffs are members of the NGE. The Report-Recommendation provides an overview and history of the NGE.

ORDERED that

1. Defendants' motion for summary judgment is GRANTED in part and DENIED in part;
2. All claims against defendants James A. Nichols and K.F. Keller are DISMISSED;
3. The First Amendment and RLUIPA claims based upon the restrictions on displaying NGE symbols, Universal Flag, and texts are DISMISSED;
4. Defendants' motion for summary judgment is DENIED as follows:
 - (a) The First Amendment and RLUIPA claims based upon the restrictions on NGE congregative opportunities and on wearing crowns; and
 - (b) The equal protection claims.

IT IS SO ORDERED.



United States District Judge

Dated: September 25, 2012
Utica, New York.